

Senate

Record of Committee Proceedings

Committee on Privacy, Electronic Commerce and Financial Institutions

Assembly Bill 267

Relating to: the use and regulation of electronic signatures, providing an exemption from emergency rule procedures and granting rule-making authority.

By Representative Hutchison, Jensen, Huebsch, F. Lasee, Meyer, Sykora, Kelso, Owens, Musser, Albers, Kaufert, Olsen, Montgomery, Vrakas; cosponsored by Senator Rude.

February 3, 2000 Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

February 16, 2000 **PUBLIC HEARING HELD**

Present: (4) Senators Erpenbach, Jauch, Rude and Fitzgerald.

Absent: (1) Senator Plache.

Appearances for

- Representative Dave Hutchison
- Mark Ladd, Commission of Use of Electronic Signatures
- Amy K. Moran, Department of Administration

Appearances against

- Pete Christianson, Wisconsin Land Title Association

Appearances for Information Only

- Juna Krajewski, Office of Secretary of State

Registrations for

- Senator Brian Rude
- Laurie Kuiper, City of Milwaukee
- Linda Barth, State Bar of Wisconsin
- Dave Anderson, Department of Financial Institutions

Registrations against

- None.

March 8, 2000

EXECUTIVE SESSION (POLLING)

Moved by Senator Erpenbach that **Senate Amendent LRBs0312/2** be recommended for introduction and adoption.

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 5,
Noes 0, Absent 0

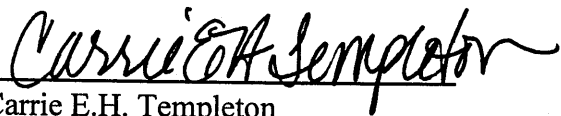
Moved by Senator Erpenbach that **Assembly Bill 267** be recommended for concurrence as amended.

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 5,
Noes 0, Absent 0


Carrie E.H. Templeton
Committee Clerk

Senate

AB-267

Committee Report

The committee on **Privacy, Electronic Commerce and Financial Institutions**, reports and recommends:

Assembly Bill 267

Relating to: the use and regulation of electronic signatures, providing an exemption from emergency rule procedures and granting rule-making authority.

By Representative Hutchison, Jensen, Huebsch, F. Lasee, Meyer, Sykora, Kelso, Owens, Musser, Albers, Kaufert, Olsen, Montgomery, Vrakas; cosponsored by Senator Rude.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT

LRBs0312/2, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

Senate Bill 207

Relating to: the release of personally identifiable information by businesses and their employees and providing a penalty.

By Senator Erpenbach; cosponsored by Representative Schneider, Black, Staskunas, F. Lasee, Bock, Musser, Plouff, J. Lehman, Kreuser, Lassa, Gunderson.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT

LRBs0282/3, Ayes 3, Noes 2, Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2,
Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.

Senate Bill 248

Relating to: requiring certain disclosures in advertising per-minute rates for long distance service and providing a penalty.

By Senator Jauch, Erpenbach, Plache, Darling, Roessler; cosponsored by Representative Wasserman, Hutchison, Schneider, Musser, Miller, Black, Bock, Gunderson, Sinicki, Williams, Berceau, Reynolds.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT
LRBa1325/1, Ayes 5, Noes 0, Absent 0

Ayes: (5) Senators Erpenbach, Jauch, Plache, Rude and Fitzgerald.

Noes: (0) None.

Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 4, Noes 1,
Absent 0

Ayes: (4) Senators Erpenbach, Jauch, Plache and Rude.

Noes: (1) Senator Fitzgerald.

Absent: (0) None.

Senate Bill 379

Relating to: prohibiting the investment board from making certain investments.

By Senator Moore, George, Erpenbach; cosponsored by Representative Morris-Tatum, Miller, Colon, Turner, Pocan, Young, Bock, Coggs, Berceau, Richards, Williams, Riley.

PASSAGE RECOMMENDED, Ayes 3, Noes 2, Absent 0

Ayes: (3) Senators Erpenbach, Jauch and Plache.

Noes: (2) Senators Rude and Fitzgerald.

Absent: (0) None.



Senator Jon Erpenbach
Chair

AB267

Mtg w/ Dan Schmidt

Electronic signature definition

UETA vs. AB267

- make AB267 more consumer friendly
- easier to give the 2

Section 1
① Change electronic signature definition to match UETA

- get rid of authentication language
- UETA has a broader definition

Section 6
② AB267 - you don't need consent of both sides for use of electronic signatures

UETA says must agree that transactions can be completed by electronic signature
Dual party consent

③ Keep Assembly Bill 1 - funny sec. of State
- don't want to lose this to UETA

Jeff
Reusel

rulemaking
extended
time
period

DOA rulemaking auth. for agencies to accept electronic signatures - gov't units

• Open slate for priv. transactions to agree to receive an electronic signature as they would a manual one

→ Mark Ladd wants this so he can proceed w/ his pilot program

HEARING PROCEDURE March 8, 2000

1. **Call to Order:** "The Senate Committee on Privacy, Electronic Commerce and Financial Institutions will come to order. Will members please take your seats."
2. **Call the roll:** "We will dispense with the calling of the roll and the clerk will note presence of Senators as they arrive." Carrie will fill in roll sheet as Senators arrive.
3. **Welcome and Announce Purpose of Hearing**
"Welcome members of the public, legislators and staff."

"The purpose of this hearing is to hold a public hearing and executive session. We will receive public testimony and then hold an executive session on AB 267, SB 207 and SB 248."
4. **Operation of the Hearing:** "If you wish to testify to the Committee, please fill out a hearing slip and return it to the Senate messenger." Point out messenger. "If you wish to simply register for a bill, fill out a slip and give it to the messenger as well."
5. **Order of Speakers:** "To the extent possible, I will alternate between speakers with different points of view on the subjects before us."
6. **Begin the hearing:**
 - a. Carrie will sort slips by topic;
 - b. Jon calls the first speaker, call Legislators first;
 - c. When speaker is through, ask if committee members have questions;
 - d. When last slip is given, let everyone know that this is the last slip, anyone who wishes to speak on the bill should fill out a slip right now.

Erpenbach

JON ERPENBACH

S T A T E S E N A T O R

March 8, 2000

To: Members, Senate Committee on Privacy, Electronic Commerce and Financial Institutions

From: Senator Jon Erpenbach

Re: Paper Ballot on AB 267, SB 207, SB 248, SB 379

Attached is the paper ballot for the bills mentioned above and their respective amendments.

Dick Sweet and Dan Schmidt of the Legislative Council have indicated they are available this afternoon and tomorrow morning should you have questions regarding any of the bills or their amendments.

Also, please feel free to contact Carrie Templeton of my staff at 6-6670 if you have any questions.

Please return the ballot to my office no later than noon tomorrow, March 9, 2000. Thank you.

AB-267

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

X aye _____ no

Recommend passage of Assembly Bill 267 as amended:

X aye _____ no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

X aye _____ no

Recommend passage of Senate Bill 207 as amended:

X aye _____ no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

X aye _____ no

Recommend passage of Senate Bill 248 as amended:

X aye _____ no

SB 379

Recommend passage of Senate Bill 379:

X aye _____ no

Jon Erpenbach
Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

 X aye no

Recommend passage of Assembly Bill 267 as amended:

 X aye no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

 aye X no

Recommend passage of Senate Bill 207 as amended:

 aye X no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

 X aye no

Recommend passage of Senate Bill 248 as amended:

 aye X no

SB 379

Recommend passage of Senate Bill 379:

 aye X no

 Scott Fitzgerald
Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

 X aye no

Recommend passage of Assembly Bill 267 as amended:

 X aye no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

 X aye no

Recommend passage of Senate Bill 207 as amended:

 X aye no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

 X aye no

Recommend passage of Senate Bill 248 as amended:

 X aye no

SB 379

Recommend passage of Senate Bill 379:

 X aye no

 Robert J.
Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

X aye

_____no

Recommend passage of Assembly Bill 267 as amended:

X aye

_____no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

X aye

_____no

Recommend passage of Senate Bill 207 as amended:

X aye

_____no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

X aye

_____no

Recommend passage of Senate Bill 248 as amended:

X aye

_____no

SB 379

Recommend passage of Senate Bill 379:

X aye

_____no

Kim Olache

Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

PAPER BALLOT

March 8, 2000

AB 267

Recommend adoption of the Committee's Senate Substitute Amendment (LRBs0312/2) to Assembly Bill 267:

✓ aye no

Recommend passage of Assembly Bill 267 as amended:

✓ aye no

SB 207

Recommend adoption of Senator Erpenbach's Senate Substitute Amendment (LRBs0282/3) to Senate Bill 207:

 aye ✓ no

Recommend passage of Senate Bill 207 as amended:

 aye ✓ no

SB 248

Recommend adoption of Senator Jauch's Senate Simple Amendment (LRBa1325/1) to Senate Bill 248:

✓ aye no

Recommend passage of Senate Bill 248 as amended:

✓ aye no

SB 379

Recommend passage of Senate Bill 379:

 aye ✓ no



Signature

Please return by Noon on March 9, 2000 to Senator Jon Erpenbach's Office. Thank you.



**SENATE SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 267**

1 **AN ACT** *to repeal* 137.04 (1), 137.06 (1) (e) and 224.30; *to renumber and amend*
2 137.05; *to amend* 137.05 (title); *to repeal and recreate* 137.04 (2); and *to*
3 *create* 137.01 (6e), 137.04 (1m) and 137.05 (2) of the statutes; **relating to:** the
4 use and regulation of electronic signatures, providing an exemption from
5 emergency rule procedures and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 137.01 (6e) of the statutes is created to read:
7 137.01 (6e) ELECTRONIC SIGNATURES. The secretary of state and department of
8 administration shall jointly promulgate rules establishing requirements that a
9 notary public must satisfy in order to use an electronic signature, as defined in s.
10 137.04 (2), for any attestation. The joint rules shall be numbered as rules of each
11 agency in the Wisconsin Administrative Code. The electronic signature of a notary

1 public is not valid for official acts unless the signature is used in compliance with
2 those requirements.

3 **SECTION 2.** 137.04 (1) of the statutes is repealed.

4 **SECTION 3.** 137.04 (1m) of the statutes is created to read:

5 137.04 (1m) "Document" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and that is retrievable in
7 a perceivable form.

8 **SECTION 4.** 137.04 (2) of the statutes is repealed and recreated to read:

9 137.04 (2) "Electronic signature" means an electronic sound, symbol or process
10 that is attached to or logically associated with a document and that is executed or
11 adopted by a person with intent to sign the document.

12 **SECTION 5.** 137.05 (title) of the statutes is amended to read:

13 **137.05 (title) Submission of written documents to governmental units.**

14 **SECTION 6.** 137.05 of the statutes is renumbered 137.05 (1) and amended to
15 read:

16 137.05 (1) ~~Unless otherwise prohibited by law, any document that is required~~
17 ~~by law to be submitted in writing to a governmental unit and that requires a written~~
18 ~~signature may be submitted by transforming the document into electronic format,~~
19 ~~but~~ A document that is signed or given effect with an electronic signature may be
20 submitted to a governmental unit only with the consent of the governmental unit
21 that is to receive the document.

22 **SECTION 7.** 137.05 (2) of the statutes is created to read:

23 137.05 (2) The department of administration shall promulgate rules
24 concerning the use of electronic signatures by governmental units. With respect to

1 use of electronic signatures by notaries public, the rules shall be consistent with rules
2 promulgated under s. 137.01 (6e).

3 **SECTION 8.** 137.06 (1) (e) of the statutes is repealed.

4 **SECTION 9.** 224.30 of the statutes is repealed.

5 **SECTION 10. Nonstatutory provisions.**

6 (1) **USE OF ELECTRONIC SIGNATURES BY GOVERNMENTAL UNITS.** Using the procedure
7 under section 227.24 of the statutes, the department of administration may
8 promulgate emergency rules under section 137.05 (2) of the statutes, as created by
9 this act, for the period before the effective date of permanent rules initially
10 promulgated under section 137.05 (2) of the statutes, as created by this act, but not
11 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
12 Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department
13 is not required to provide evidence that promulgating a rule under this subsection
14 as an emergency rule is necessary for the preservation of the public peace, health,
15 safety or welfare and is not required to provide a finding of emergency for a rule
16 promulgated under this subsection.

17 (2) **USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC.** The secretary of state
18 and department of administration shall promulgate initial rules under section
19 137.01 (6e) of the statutes, as created by this act, to become effective no later than
20 January 1, 2002.

21 **SECTION 11. Effective date.**

22 (1) This act takes effect on the first day of the 4th month beginning after
23 publication.

24 (END)

AB 267

Hutchinson / Rude Bill

Regulation of Electronic Signatures and an emergency rule exemption.

The issues with the bill.

UETA is an coalition that has met over the past year to draft a sort of standard/universal law for how states deal with the issue of electronic signatures. Gary George sits on the commission. They have made recommendation, which are currently being drafted. The Governor mentioned the bill in his State of the State. The bill has a target introduction date of January 2001.

AB 267 has some conflicts with the recommended draft language of UETA (DOA will testify on)

OPTION 1 – we adapt AB 267 so it is more in compliance with UETA

OPTION 2 – we wait for the UETA bill next session

Those who would like option 1 to the best of my knowledge are – Mark Ladd (remember him?) the Register of Deeds for Racine County – he has apparently taken it upon himself to implement a pilot program that is really screwed up if we don't pass this legislation ASAP.

Those who would like option 2 to the best of my knowledge are – Merchants

My recommendation – this is not our bill – there isn't one Dem on it in the Senate – let's follow Rude's lead. **We are not going to be ready for an executive session tomorrow.**

THE BILL

Electronic Signatures

Currently, any document prepared by a person that requires a signature may be signed and given an electronic signature if certain requirements are met. Currently, the electronic signature must be verified by a third party and the original sender (capable of verification) and must contain a combinations of words, letters, symbols or characters. In addition, an electronic signature must be attached to a document that that can be validated (third party verification) that it has not been altered.

This bill deletes all of the current requirements concerning the form and validity of electronic signatures. Under the bill an electronic signature may employ any identifier or authentication technique. This bill also takes rule making away from DFI (who have screwed it up) and gives it to DOA.

Reality

Something will happen with electronic signatures.